



**TOWN OF TEMPLETON
BOARD OF SELECTMEN
160 Patriots Road ~ P.O. Box 620
EAST TEMPLETON, MASSACHUSETTS 01438
TEL: (978) 894-2755**

**REMOTE PARTICIPATION BY MEMBERS OF PUBLIC BODIES
OF THE TOWN OF TEMPLETON**

POLICY # 2019-01

1.) Authority

In accordance with its role as the governing body, the Board of Selectmen (the "Board") has the authority to adopt statements of policy to order its affairs and guide the administrative functions of the corporate body politic of the Town of Templeton.

In this instance, more specifically, this policy is adopted under the authority of 940 CMR 29.10 (2)(a); regulations promulgated by the MA Attorney General (the "Attorney General") under the authority of MGL Ch. 30A §20(d).

2.) Purpose

The intent of this policy is to encourage the ongoing participation in the meetings of the Town's many public bodies by those who may, from time to time, find that physical attendance would be unreasonably difficult by authorizing the remote participation in the meetings of all the public bodies of the Town of Templeton by their various members and further by establishing specific practices, and in some cases more stringent practices, in accord with those promulgated by the Attorney General.

3.) Administration

This policy shall generally be administered by the Chair of the several public bodies of the Town for which this policy has been adopted and the Town Clerk.

4.) Definitions

Chair: The elected Chair of any public body or, in the chair's absence, the person authorized to chair the meeting.

Unless otherwise established or supplemented, any term used herein shall be as defined in MGL Ch. 30A §18 and of 940 CMR 29.02.

5.) **Policy**

A. Application: Notwithstanding the reference to it, be it a board, committee, ad-hoc committee, commission, or sub-committee, this policy shall apply to any public body of the Town of Templeton without distinction to whether it be appointed or elected, effective the date of adoption.

B. Supplementary Provisions: This policy establishes practices supplementary to those established by the Attorney General. Whenever it shall appear there is a conflict between 940 CMR 29.10 and this policy, the Chair of the public body shall apply the stricter provision.

C. Utilization by the Member: Remote participation is not intended for the convenience of the Member of a public body. Members may only participate remotely in a meeting if physical attendance would be unreasonably difficult. Those administering this policy shall not take issue with a Member of the public body declaring such difficulty as it the intent of the Board in adopting this policy to enhance participation in the ongoing business of the public body. Notwithstanding the adoption of this policy, members of the Town's public bodies are strongly encouraged to physically attend meetings whenever possible. The decision of a Member to participate in the meeting remotely is predicated upon two basic conditions:

1. Quorum Required: A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, must be physically present at the meeting location, in order to allow for remote participation of a Member. The Member participating remotely may not be counted as part of the physical quorum in determining if a meeting may go forward.

2. Audible and Visible Remote Participation: The Member(s) participating remotely, the Members of the public body physically present and those in attendance at the meeting location and all persons present at the meeting location must be clearly audible to each other with continuity of communications. For those using video conferencing (e.g. skype or other), the participant must be clearly visible to such attendees.

3. Direct Message or Other Subterfuge: Members of public bodies have a responsibility to ensure that remote participation in meetings, in addition to not being used solely as a convenience for the remotely participating member to ensure that it is not used in a way that would defeat the purposes of M.G.L. c. 30A, §§ 18 - 25, namely promoting transparency with regard to deliberations and decisions on which public policy is based. Accordingly, the Chair shall publicly instruct those physically present, if using any form of electronic device to view the Member participating remotely, to not direct message said Member outside of the view of attendees. If the Chair suspects subterfuge in any manner in using remote participation to defeat such subterfuge, he may disallow the remote participation. This decision may be overridden by a majority roll call vote of the quorum physically present.

D. Procedures for Preparation for the Meeting in Which Remote Participation is to be Used:

1. Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the Chair or, in the Chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.
2. While the Member is encouraged to participate in the entirety of the meeting, it is understood that this may not be possible and that the Member may only be participating in one or more specific items. In advising the Chair of their desire to participate in the meeting remotely, they are to further advise the Chair on their ability to participate in the entirety or only a portion thereof.
3. The member is to advise the Chair as to what types of technology they desire to use to engage in remote participation from amongst the various approved methods of telephone, internet, or satellite enabled audio or video conferencing or such yet unidentified technology that enables the remote participant and all persons present at the meeting location to be clearly audible – or visible – to one another. Remote participation by any other means is not permitted.
4. Upon being advised by a member of their desire to participate remotely and the type of technology that is to be used, the Chair shall take steps to ensure that such technology is available and of sufficient quality and reliability so as to meet the intent of this policy.
5. The Chair shall further, take steps to ensure that copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting have been supplied to the Member remotely participating.

E. Procedures for Remote Participation During the Meeting:

1. Upon opening the meeting, the chair shall announce the name of any member who will be participating remotely and if their request is to participate in the entirety of the meeting or a portion thereof. This information shall also be recorded in the meeting minutes.
2. If the Member is to participate during only portions of the Meeting, the minutes shall clearly reflect the start and end time of their participation.
3. If documents were supplied to the remotely participating member which are being used as the basis of a decision, the Chair shall inquire of – and ensure their receipt of – such materials before undertaking the time to be acted upon.
4. If documents are supplied to the public body during the meeting upon which a decision is to be made, the Chair shall pause the meeting to scan, fax or email such a document to the remotely participating member. If, in the opinion of the Chair, such a document cannot be made available to the member during the course of the discussion and such a document is of such importance to a proper

decision making process that a well considered decision cannot be made without being able to view the document, the Chair may rule that the remotely participating member may not participate in the vote on said matter. This decision may be overridden by a majority roll call vote of the quorum physically present. Any such documents shall, if used during the meeting, be part of the official record of the meeting, listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, § 22.

5. The Chair may decide how to address technical difficulties that arise as a result of utilizing remote participation but is encouraged wherever possible to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes. The Chair may then rule that the remotely participating member may not participate in the vote on said matter. This decision may be overridden by a majority roll call vote of the quorum physically present.

6. A member participating remotely may participate in an executive session but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the quorum physically present.

7. All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

8. Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, § 23D.

9. Unless authorized in advance by a vote of the Board, or a provision of specific cost line item has been made in the departmental budget, no cost is approved for any such remote participation by a member of a public body.

F. Waiver, Amendment and Revocation:

1. No public body, including this Board, may vote to "opt-out" of this policy for any meeting or for any vote or discussion during such a meeting;

2. The Board may amend this policy at any time in accord with its practices for adopting policies provided however, that such an amendment shall not be effective for a period of thirty (30) days from the date of adoption; and

3. The Board may revoke this policy in its entirety in accord with its practices for adopting policies provided however, that such a revocation shall not be effective for a period of thirty (30) days from the date of revocation.

G. Circulation: The Town Clerk is to, upon receipt of this adopted policy, circulate it to all public bodies and the departments which provide staff support to those public bodies. Further, the Town Clerk is to provide a copy of this policy, as it may from time to time be amended, to all new appointed or elected members of a public body at the time of their being sworn to the duties of their office.

6.) Evasion of This Policy:

Evasion & Remedy for Violation: After due investigation, if the Board finds willful violation of this policy has been committed, it may sanction or remove as deemed warranted, appropriate, and lawful, the person committing such violation. If the Attorney General determines after investigation that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

It shall be a violation of this policy, and a disciplinary offense, to act in any manner other than prescribed herein.

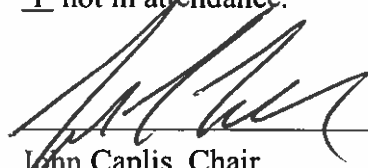
7.) Periodic Review and Revisions:

Annually, at the time of preparing a recommended budget, the Administrator shall review this policy with staff to determine how effectively it is meeting its purpose. Suggested revisions shall be submitted to the Board for its consideration and adoption with the annual budget proposal submitted by the Administrator.

Effective Date

This Policy is effective upon being posted upon the Town's web site and filed with the Town Clerk. It supersedes all previous orders or policies relative to or in conflict with this matter and the procedures described herein.

Approved and adopted this 23rd day of January, 2019, by a vote of 3 in favor, 0 opposed, and 1 not in attendance.



John Caplis, Chair
Town of Templeton SelectBoard

Adopted: 1/23/19

Amended: N/A